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April 27, 2022

Via ECF

Hon. Louis L. Stanton, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: FTC, et al. v. Quincy Bioscience Holding Co., Inc., et al., Case No. 1:17-cv-00124-LLS

Your Honor:

We write on behalf of defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc., Quincy Bioscience Manufacturing, LLC (collectively, “Quincy”), and Mark Underwood (with Quincy, “Defendants”) in response to Plaintiffs’ April 26 letter request (ECF 229).

On April 15, 2022, one day after Defendants moved for summary judgment, Plaintiffs requested an extension of their time to respond to the motion, and also proposed certain revisions to the operative Scheduling Order (ECF No. 192 (“Scheduling Order”)). Specifically, Plaintiffs requested that their deadline to oppose Defendants’ motion be extended from April 28 to June 23 (an 8-week extension of the deadline imposed by the local rules) and that the deadline to file the final pretrial order, expert witness statements, trial briefs, jury charges, voir dire, witness lists, and evidentiary issues (ECF No. 192 ¶¶ 7—9) (the “Final Pretrial Order Deadline”) be extended from June 3 to September 29 (a 17-week extension from the date set forth in the Scheduling Order).

After extensive meet and confer efforts lasting more than 10 days (*see* Ex. A hereto), the parties agreed to a 7-week extension of Plaintiffs’ deadline to respond to Defendants’ motion (ECF 229), just one week less than Plaintiffs originally requested.

Despite Defendants’ substantial compromise in this regard, the parties have been unable to reach agreement with respect to the Final Pretrial Order Deadline. As reflected in the parties’ correspondence, Plaintiffs apparently want to focus almost exclusively on their opposition to Defendants’ motion for summary judgment, and only then move on to the pretrial phase of this case. (Ex. A.) Not only is this approach inconsistent with the operative Scheduling Order, it would severely prejudice Defendants, who have already spent years litigating this case, and many more years (more than seven) under scrutiny from

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the FTC. Defendants have been more than accommodating to Plaintiffs' numerous extension requests throughout this litigation, but discovery is now over and Defendants are entitled to a resolution without further delay.

Moreover, the Court entered the operative June 3 Final Pretrial Order Deadline months ago *at Plaintiffs' request* (ECF No. 191-1),¹ which was submitted to the Court with full knowledge that Defendants intended to move for summary judgment. Since then, Defendants have been working diligently to prepare their motions for summary judgment while also complying with the pretrial schedule and do not understand why Plaintiffs are unable or unwilling to do the same.

Indeed, in response to Plaintiffs' proposed Final Pretrial Order Deadline of September 29, Defendants offered three, more modest proposals, most recently suggesting a July 13 deadline. (Ex. A.) Defendants believe this deadline provides more than ample time to oppose Defendants' motion and to complete the pretrial requirements that Plaintiffs should have started working on months ago given the impending June 3 deadline.

Accordingly, Defendants propose that the Final Pretrial Order Deadline (including the items identified in paragraphs 7, 8 and 9 of the Scheduling Order) be extended to **July 13, 2022**, and that the Court schedule a status conference in the second week of July.

Respectfully submitted,

/s/ Geoffrey W. Castello

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¹ Defendants submitted a competing proposal that would have set the pretrial order deadline at May 6, 2022. (ECF No. 190.)